

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2476

To amend the Internal Revenue Code of 1986 to encourage individuals to save through individual retirement accounts, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29 (legislative day, SEPTEMBER 12), 1994

Mr. CHAFEE introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to encourage individuals to save through individual retirement accounts, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Individual Retirement Account Equity and Enhancement  
6       Act of 1994”.

7       (b) AMENDMENT OF 1986 CODE.—Except as other-  
8       wise expressly provided, whenever in this Act an amend-  
9       ment or repeal is expressed in terms of an amendment  
10      to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
 2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUC-**  
 4 **TION.**

5 (a) SPOUSAL IRA COMPUTED ON BASIS OF COM-  
 6 PENSATION OF BOTH SPOUSES.—Subsection (c) of section  
 7 219 (relating to special rules for certain married individ-  
 8 uals) is amended to read as follows:

9 “(c) SPECIAL RULES FOR CERTAIN MARRIED INDIV-  
 10 IDUALS.—

11 “(1) IN GENERAL.—In the case of an individual  
 12 to whom this paragraph applies for the taxable year,  
 13 the limitation of paragraph (1) of subsection (b)  
 14 shall be equal to the lesser of—

15 “(A) \$2,000, or

16 “(B) the sum of—

17 “(i) the compensation includible in  
 18 such individual’s gross income for the tax-  
 19 able year, plus

20 “(ii) the compensation includible in  
 21 the gross income of such individual’s  
 22 spouse for the taxable year reduced by the  
 23 amount allowable as a deduction under  
 24 subsection (a) to such spouse for such tax-  
 25 able year.

1           “(2) INDIVIDUALS TO WHOM PARAGRAPH (1)  
2       APPLIES.—Paragraph (1) shall apply to any individ-  
3       ual if—

4                   “(A) such individual files a joint return for  
5       the taxable year, and

6                   “(B) the amount of compensation (if any)  
7       includible in such individual’s gross income for  
8       the taxable year is less than the compensation  
9       includible in the gross income of such individ-  
10      ual’s spouse for the taxable year.”

11      (b) CONFORMING AMENDMENTS.—

12           (1) Paragraph (2) of section 219(f) (relating to  
13      other definitions and special rules) is amended by  
14      striking “subsections (b) and (c)” and inserting  
15      “subsection (b)”.

16           (2) Section 408(d)(5) is amended by striking  
17      “\$2,250” and inserting “\$2,000”.

18      (c) EFFECTIVE DATE.—The amendments made by  
19      this section shall apply to taxable years beginning after  
20      December 31, 1994.

1 **SEC. 3. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE**  
2 **USED WITHOUT PENALTY TO PURCHASE**  
3 **FIRST HOMES, TO PAY HIGHER EDUCATION**  
4 **OR QUALIFIED LONG-TERM CARE EXPENSES,**  
5 **OR BY THE LONG-TERM UNEMPLOYED.**

6 (a) IN GENERAL.—Paragraph (2) of section 72(t)  
7 (relating to exceptions to 10-percent additional tax on  
8 early distributions from qualified retirement plans) is  
9 amended by adding at the end the following new subpara-  
10 graph:

11 “(D) DISTRIBUTIONS FROM CERTAIN PLANS  
12 FOR FIRST HOME PURCHASES OR EDUCATIONAL OR  
13 LONG-TERM CARE EXPENSES.—Distributions to an  
14 individual from an individual retirement plan, or  
15 from amounts attributable to employer contributions  
16 made pursuant to elective deferrals described in sub-  
17 paragraph (A) or (C) of section 402(g)(3) or section  
18 501(c)(18)(D)(iii)—

19 “(i) which are qualified first-time home-  
20 buyer distributions (as defined in paragraph  
21 (6)), or

22 “(ii) to the extent such distributions do not  
23 exceed the sum of the qualified higher edu-  
24 cation expenses (as defined in paragraph (7))  
25 and the qualified long-term care expenses (as

1 defined in paragraph (8)) of the taxpayer for  
2 the taxable year.”

3 (b) DEFINITIONS.—Section 72(t) is amended by add-  
4 ing at the end the following new paragraphs:

5 “(6) QUALIFIED FIRST-TIME HOMEBUYER DIS-  
6 TRIBUTIONS.—For purposes of paragraph  
7 (2)(D)(i)—

8 “(A) IN GENERAL.—The term ‘qualified  
9 first-time homebuyer distribution’ means any  
10 payment or distribution received by an individ-  
11 ual to the extent such payment or distribution  
12 is used by the individual before the close of the  
13 60th day after the day on which such payment  
14 or distribution is received to pay qualified ac-  
15 quisition costs with respect to a principal resi-  
16 dence of a first-time homebuyer who is such in-  
17 dividual, the spouse of such individual, or the  
18 child or grandchild of such individual or the in-  
19 dividual’s spouse.

20 “(B) QUALIFIED ACQUISITION COSTS.—  
21 For purposes of this paragraph, the term  
22 ‘qualified acquisition costs’ means the costs of  
23 acquiring, constructing, or reconstructing a res-  
24 idence. Such term includes any usual or reason-

1           able settlement, financing, or other closing  
2           costs.

3           “(C) FIRST-TIME HOMEBUYER; OTHER  
4           DEFINITIONS.—For purposes of this para-  
5           graph—

6                   “(i) FIRST-TIME HOMEBUYER.—The  
7                   term ‘first-time homebuyer’ means any in-  
8                   dividual if—

9                           “(I) such individual (and if mar-  
10                           ried, such individual’s spouse) had no  
11                           present ownership interest in a prin-  
12                           cipal residence during the 3-year pe-  
13                           riod ending on the date of acquisition  
14                           of the principal residence to which  
15                           this paragraph applies, and

16                           “(II) subsection (a)(6), (h), or  
17                           (k) of section 1034 did not suspend  
18                           the running of any period of time  
19                           specified in section 1034 with respect  
20                           to such individual on the day before  
21                           the date the distribution is applied  
22                           pursuant to subparagraph (A)(ii).

23                   “(ii) PRINCIPAL RESIDENCE.—The  
24                   term ‘principal residence’ has the same  
25                   meaning as when used in section 1034.

1           “(iii) DATE OF ACQUISITION.—The  
2           term ‘date of acquisition’ means the date—

3                   “(I) on which a binding contract  
4                   to acquire the principal residence to  
5                   which subparagraph (A) applies is en-  
6                   tered into, or

7                   “(II) on which construction or re-  
8                   construction of such a principal resi-  
9                   dence is commenced.

10           “(D) SPECIAL RULE WHERE DELAY IN AC-  
11           QUISITION.—If any distribution from any indi-  
12           vidual retirement plan fails to meet the require-  
13           ments of subparagraph (A) solely by reason of  
14           a delay or cancellation of the purchase or con-  
15           struction of the residence, the amount of the  
16           distribution may be contributed to an individual  
17           retirement plan as provided in section  
18           408(d)(3)(A)(i) (determined by substituting  
19           ‘120 days’ for ‘60 days’ in such section), except  
20           that—

21                   “(i) section 408(d)(3)(B) shall not be  
22                   applied to such contribution, and

23                   “(ii) such amount shall not be taken  
24                   into account in determining whether sec-

1                   tion 408(d)(3)(A)(i) applies to any other  
2                   amount.

3                   “(7) QUALIFIED HIGHER EDUCATION EX-  
4                   PENSES.—For purposes of paragraph (2)(D)(ii)—

5                   “(A) IN GENERAL.—The term ‘qualified  
6                   higher education expenses’ means tuition, fees,  
7                   books, supplies, and equipment required for the  
8                   enrollment or attendance of—

9                   “(i) the taxpayer,

10                  “(ii) the taxpayer’s spouse, or

11                  “(iii) the child (as defined in section  
12                  151(c)(3)) or grandchild of the taxpayer or  
13                  the taxpayer’s spouse,

14                  at an eligible educational institution (as defined  
15                  in section 135(c)(3)).

16                  “(B) COORDINATION WITH SAVINGS BOND  
17                  PROVISIONS.—The amount of qualified higher  
18                  education expenses for any taxable year shall be  
19                  reduced by any amount excludable from gross  
20                  income under section 135.

21                  “(8) QUALIFIED LONG-TERM CARE EX-  
22                  PENSES.—For purposes of paragraph (2)(D)(ii)—

23                  “(A) IN GENERAL.—The term ‘qualified  
24                  long-term care expenses’ means amounts paid  
25                  or incurred for qualified long-term care serv-



1           ices, including amounts for insurance covering  
2           such services.

3           “(B) QUALIFIED LONG-TERM CARE SERV-  
4           ICES.—For purposes of subparagraph (A)—

5           “(i) IN GENERAL.—The term ‘quali-  
6           fied long-term care services’ means nec-  
7           essary diagnostic, preventive, therapeutic,  
8           rehabilitative, and maintenance (including  
9           personal care) services—

10           “(I) which are required by an in-  
11           dividual during any period during  
12           which such individual is a functionally  
13           impaired individual,

14           “(II) which have as their primary  
15           purpose the provision of needed assist-  
16           ance with 1 or more activities of daily  
17           living which a functionally impaired  
18           individual is certified as being unable  
19           to perform under clause (ii) (I), and

20           “(III) which are provided pursu-  
21           ant to a continuing plan of care pre-  
22           scribed by a licensed health care prac-  
23           titioner (other than a relative of such  
24           individual).

1                   “(ii) FUNCTIONALLY IMPAIRED INDIVIDUAL.—

2

3                   “(I) IN GENERAL.—The term

4                   ‘functionally impaired individual’

5                   means any individual who is certified

6                   by a licensed health care practitioner

7                   (other than a relative of such individual)

8                   as being unable to perform, without

9                   substantial assistance from another

10                  individual (including assistance

11                  involving verbal reminding, physical

12                  cueing, or substantial supervision), at

13                  least 3 activities of daily living de-

14                  scribed in clause (iii).

15                  “(II) SPECIAL RULE FOR HOME

16                  HEALTH CARE SERVICES.—In the case

17                  of services which are provided during

18                  any period during which an individual

19                  is residing within the individual’s

20                  home (whether or not the services are

21                  provided within the home), subclause

22                  (I) shall be applied by substituting ‘2’

23                  for ‘3’. For purposes of this

24                  subclause, a nursing home or similar

25                  facility shall not be treated as a home.

1 “(iii) ACTIVITIES OF DAILY LIVING.—

2 Each of the following is an activity of daily

3 living:

4 “(I) Eating.

5 “(II) Transferring.

6 “(III) Toileting.

7 “(IV) Dressing.

8 “(V) Bathing.

9 “(C) LICENSED HEALTH CARE PRACTI-

10 TIONER.—For purposes of subparagraph (B)—

11 “(i) IN GENERAL.—The term ‘licensed

12 health care practitioner’ means—

13 “(I) a physician or registered

14 professional nurse,

15 “(II) a qualified community care

16 case manager (as defined in clause

17 (ii)), or

18 “(III) any other individual who

19 meets such requirements as may be

20 prescribed by the Secretary after con-

21 sultation with the Secretary of Health

22 and Human Services.

23 “(ii) QUALIFIED COMMUNITY CARE

24 CASE MANAGER.—The term ‘qualified com-

1 munity care case manager' means an indi-  
2 vidual or entity which—

3 “(I) has experience or has been  
4 trained in providing case management  
5 services and in preparing individual  
6 care plans;

7 “(II) has experience in assessing  
8 individuals to determine their func-  
9 tional and cognitive impairment;

10 “(III) is not a relative of the in-  
11 dividual receiving case management  
12 services; and

13 “(IV) meets such requirements  
14 as may be prescribed by the Secretary  
15 after consultation with the Secretary  
16 of Health and Human Services.

17 “(D) RELATIVE.—For purposes of this  
18 paragraph, the term ‘relative’ means an individ-  
19 ual bearing a relationship to another individual  
20 which is described in paragraphs (1) through  
21 (8) of section 152(a).”

22 (c) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN  
23 UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section  
24 72(t) is amended by adding at the end the following new  
25 subparagraph:

1           “(E) DISTRIBUTIONS TO UNEMPLOYED IN-  
2           DIVIDUALS.—A distribution from an individual  
3           retirement plan to an individual after separa-  
4           tion from employment, if—

5                   “(i) such individual has received un-  
6                   employment compensation for 12 consecu-  
7                   tive weeks under any Federal or State un-  
8                   employment compensation law by reason of  
9                   such separation, and

10                   “(ii) such distributions are made dur-  
11                   ing any taxable year during which such un-  
12                   employment compensation is paid or the  
13                   succeeding taxable year.”

14       (d) CONFORMING AMENDMENTS.—

15           (1) Section 401(k)(2)(B)(i) is amended by  
16           striking “or” at the end of subclause (III), by strik-  
17           ing “and” at the end of subclause (IV) and inserting  
18           “or”, and by inserting after subclause (IV) the fol-  
19           lowing new subclause:

20                   “(V) the date on which qualified  
21                   first-time homebuyer distributions (as  
22                   defined in section 72(t)(6)), or dis-  
23                   tributions for qualified higher edu-  
24                   cation expenses (as defined in section  
25                   72(t)(7)), or for qualified long-term

1 care expenses (as defined in section  
2 72(t)(18)), are made, and”.

3 (2) Section 403(b)(11) is amended by striking  
4 “or” at the end of subparagraph (A), by striking the  
5 period at the end of subparagraph (B) and inserting  
6 “, or”, and by inserting after subparagraph (B) the  
7 following new subparagraph:

8 “(C) for qualified first-time homebuyer dis-  
9 tributions (as defined in section 72(t)(6)) or for  
10 the payment of qualified higher education ex-  
11 penses (as defined in section 72(t)(7)) or quali-  
12 fied long-term care expenses (as defined in sec-  
13 tion 72(t)(8)).”

14 (e) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to payments and distributions after  
16 the date of the enactment of this Act.

○